



Statement of Basis

United States Environmental Protection Agency (EPA) Region 8 National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges from Industrial Activities

I. Introduction

EPA Region 8 is reissuing the general permit that authorizes the discharge of pollutants in storm water discharges associated with industrial activity (previously referred to as the MSGP or Multi Sector General Permit for industrial activities). As used in this permit, “storm water discharges from industrial activities” refers to activities requiring permit coverage as defined in federal regulations at 40 CFR§122.26(b)14. However, this permit can not be used to cover all discharges referenced in the aforementioned federal regulations. Only discharges referenced in Part 1.6 of the permit may be covered under this permit. Of specific note, construction activities and industrial storm water discharges subject to effluent limitation guidelines (ELGs) can not be covered under the general permit.

This permit replaces the MSGP 2000 where EPA Region 8 is the permitting authority. Operators previously covered by the MSGP 2000 will not be eligible for coverage under the national MSGP, i.e., the MSGP 2006, for their activities in the states of Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. Part 1.2 of the permit contains a list of areas eligible for coverage under this permit.

The most significant changes from the MSGP 2000 include:

- EPA Region 8 is not included in the national MSGP 2006. This permit replaces the MSGP 2000 where EPA Region 8 is the permitting authority.
- This permit can not be used to cover industrial activities with ELGs for storm water runoff.
- This permit does not contain benchmark monitoring of storm water runoff.
- Specific storm water management controls are included which must be met to ensure compliance with the terms of the permit.
- Authorization for permit coverage can only be obtained for this permit upon submittal and approval of a storm water pollution prevention plan (SWPPP)
- Sector-specific requirements have been eliminated from this permit

II. Answers to Common Questions

What is the goal of this permit?

The goal of this permit is to protect the quality and beneficial uses of the nation’s surface water resources from pollution in storm water runoff from industrial activities. To achieve this goal, the permit requires operators to implement site-specific storm water management controls and develop a storm water pollution prevention plan (SWPPP) which details how such controls

reduce the discharge of pollutants in storm water runoff to the Maximum Extent Practicable (MEP).

What types of activities previously covered under the MSGP 2000 are not covered under this permit?

As a departure from the MSGP 2000, this permit does not authorize storm water discharges from industrial activities subject to effluent limitation guidelines (ELGs). Any facility subject to ELGs for their storm water discharges will need to be covered under an individual NPDES permit.

For activities currently covered under this permit, what is needed to reissue?

If you have obtained coverage under an individual permit for process water discharges from your facility, you may not need to apply for coverage under this general permit. Upon reissuance of your individual permit, conditions which relate to discharges of storm water consistent with this permit will be added to your individual process water permit. Your storm water discharges and related activities will continue to be covered under the MSGP 2000 until your process water permit is reissued.

If you do not have an individual NPDES permit for process water discharges from your facility it will be necessary to submit a notice of termination (NOT) form to the notice of intent processing center in Washington, DC, once you are certified for coverage under this permit. The EPA Region 8 office can assist with this procedure.

Are there situations where a permit is not needed?

- If no industrial activities are exposed to rain or snowmelt, you may submit a no exposure certification form. A no exposure form may be obtained from the EPA Region 8 web site at www.epa.gov/region8/stormwater
- If all of the storm water from industrial activity is captured on-site and allowed to evaporate, soak into the ground on-site, or is used for irrigation, you do not need coverage under this permit. If there is a potential to discharge storm water runoff from industrial activity, you need to apply for coverage under this permit.

What do you need to do to apply for permit coverage?

An optional form can be downloaded from the EPA Region 8 web site at www.epa.gov/region8/stormwater, which includes all of the application requirements.

1. You will need a copy of the permit to determine if you are eligible to use the permit.
2. Document how you determined your eligibility with regard to protection of endangered species and historic properties (see Parts 1.8 and 1.9 of the permit).
3. Identify storm water management controls as required in Part 2 of the permit.

4. Prepare a SWPPP which meets the criteria in Part 3 of the permit
5. Submit an application which meets the application requirements as stated in Part 1.3 of the permit. The SWPPP must be included as part of the application and will be approved by EPA Region 8 prior to providing permit coverage.
6. Make any amendments to the SWPPP as required by the permitting authority.

Where are applications submitted?

Applications are submitted to the EPA Region 8 office at:

Storm Water Coordinator (8P-W-WW)
US EPA Region 8
1595 Wynkoop Street
Denver, CO 80202

The Wynkoop Street address should be used for all submittals on or after March 1, 2007.

III. Background

In accordance with section 402(p)(2) of the Clean Water Act, storm water discharges associated with industrial activity must be authorized by an NPDES permit. On November 16, 1990, EPA published regulations that defined “storm water discharges associated with industrial activity.” The 1990 regulations, often referred to as the “Phase 1 Rule,” outlined procedures under which operators of industrial activities could apply for coverage under an existing NPDES permit or apply for an individual permit. In 1992, EPA issued a baseline general permit (57 FR 41175) to address storm water discharges from industrial activity. This baseline permit was designed to reduce the pollutants discharged in storm water to the maximum extent practicable (MEP) by requiring operators to create and implement a storm water pollution prevention plan (SWPPP) with generic best management practices (BMPs) which applied to all facilities covered by the permit. On September 29, 1995 (60 FR 50804), EPA consolidated the baseline permit and other associated permits into the Multi Sector General Permit (MSGP) for industrial activities. The MSGP included the SWPPP requirements of the baseline permit and added monitoring requirements for certain categories of facilities based on professional judgment concerning the risks posed by the facilities. This permit builds on the MSGP and the MSGP 2000 by including similar SWPPP and BMP requirements, but it is being created as a separate permit specific to EPA Region 8. As such, it contains conditions and implementation more specifically tailored to the limited scope of industrial activities regulated through the EPA Region 8 office.

IV. Types of Activities Subject to Coverage Under This Permit

Industrial activities defined in federal regulations at 40 CFR 122.26(b)(14) are required to obtain permit coverage for their storm water discharges. This permit is intended to cover discharges

composed entirely of storm water from industrial facilities as defined by their Standard Industrial Classification (SIC) code. The industries listed here by their SIC code are eligible for coverage under this permit. Companies can determine their SIC code by checking with their trade association, Chamber of Commerce, or by obtaining a SIC code manual.

Industries Covered by this General Permit

SIC Code(s) Industry description

13 Oil and Gas Extraction
 20 Food and kindred products (except 2011, 2015, 2077)
 21 Tobacco products
 22 Textile mills and products
 23 Apparel and other finished products
 24 Timber products processing (except 2491)
 25 Furniture and fixtures
 26 Paper and allied products, pulp and paperboard
 27 Printing, publishing, and allied industries
 2951 Asphalt batch plants
 31 Leather tanning and finishing and leather and leather products
 32 Stone, clay, glass products, including glass manufacturing (except 3241, 3274)
 34 Fabricated metal products, except machinery and computer equipment
 35 Industrial and commercial machinery and computer equipment
 36 Electronic and other electrical equipment and components, except computer equipment
 37 Transportation equipment
 38 Measuring, analyzing, and controlling instruments: photographic, medical and optical
 39 Misc. manufacturing industries
 4221 Farm product warehousing and storage
 4222 Refrigerated warehousing and storage
 4225 General warehousing and storage
 4952 Wastewater treatment plants with a design flow of 1.0 MGD or more, or required to have an approved pretreatment program under CFR 403
 Transportation facilities which have vehicle maintenance, fueling, equipment cleaning or airport deicing, including:
 40 Railroad transportation
 41 Local and suburban transit and interurban highway passenger transportation
 42 Motor freight transportation and warehousing (except 4221, 4222, 4225)
 43 U.S. Postal Facilities*
 44 Water transportation
 45 Air transportation (transportation facilities that use less than 1000 gallons of deicer(s) annually, and/or that have annual fuel sales of less than one million gallons/year)
 5171 Petroleum bulk stations & terminals

A two digit code, such as 22 , means that all industries under that heading, such as 2221, 2249, etc., are covered.

V. Pollutants in Storm Water Discharges Associated with Industrial Activities

Several factors influence the quantity and type of pollutants associated with storm water runoff from industrial activities. These include the type of industrial activities occurring at the site, the nature of the rain and snowmelt events, erosive potential of exposed soils, the degree to which industrial activities are sheltered from storm water, the location of industrial activities in proximity to drainages, and the degree of surface imperviousness for the facility. The MSGP (58 FR 61146) contained a discussion of factors affecting the volume and quality of runoff from industrial activities.

It is the operator's responsibility to determine areas which have the potential to contribute pollutants in storm water runoff and determine best management practices (BMPs) to minimize the transport of those pollutants off site to the maximum extent practicable. Common pollutants which may occur on a specific site vary depending on the type of materials stored and processed at any given facility. At a minimum, all facilities must install BMPs as necessary to address pollutants from:

1. Outdoor storage activities;
2. Outdoor manufacturing or processing activities;
3. Significant dust or particulate generating processes;
4. On-site waste disposal practices;
5. Salt piles;
6. Procedures and/or products used for deicing and dust suppression; and
7. Areas where significant spills and significant leaks of toxic or hazardous substances have occurred at the facility.

VI. Summary of Permit Conditions

A. Storm Water Management Controls. Each facility certified under this permit must implement a series of controls designed to reduce or prevent pollutants in storm water discharges. These controls are defined in Part 2 of the permit and include:

1. Good Housekeeping measures to maintain an orderly facility, which include such things as weekly site inspections, covering trash and industrial materials, containing non-solid materials which can be transported, and diverting storm water flows from industrial areas of the facility;
2. Identification of potential pollutant sources and BMPs;
3. Preventative maintenance procedures such as weekly inspections of outdoor storage areas and storm water management devices, draining vehicle fluids as applicable, and establishing a schedule of maintenance for industrial equipment;
4. Spill prevention and response procedures which include identification and maintenance of spill response procedures and training of appropriate personnel;
5. Material handling and waste management practices to minimize exposure of waste materials to storm water;
6. An employee training program to ensure that all necessary personnel responsible for

implementing the various compliance activities of the general permit, including BMP implementation, inspections and evaluations, monitoring activities, and storm water compliance management are adequately trained;

7. Record keeping and quality assurance measures to ensure that compliance activities are completed properly and documented;
8. Erosion and sediment control practices to prevent erosion from occurring and to divert runoff and run-off away from areas subject to erosion;
9. Identification of discharges on site other than storm water;
10. Quarterly visual inspections of all areas of industrial activity and associated potential pollutant sources; and
11. An annual comprehensive facility inspection which must be documented in a report and include repairs or maintenance of areas identified as being problematic or as being a potential pollutant source.

B. Storm Water Pollution Prevention Plan (SWPPP). A SWPPP must be submitted and approved by the EPA Region 8 office prior to certification for coverage under this general permit. The purpose of the SWPPP is to identify possible pollutant sources to storm water and to set out BMPs that, when implemented, will reduce or eliminate any possible water quality impacts. The SWPPP is intended to be a working document which is kept on site and describes how the facility will meet each of the storm water management controls described in the permit. Facilities must implement the provisions of the approved SWPPP as a condition of their permit.

VII. Limitations on Coverage.

A. Storm Water Discharges Subject to Effluent Guideline Limitations (ELGs) or New Source Performance Standards. Storm water discharges subject to ELGs and new source performance standards may not be covered under this general permit and must be certified under a separate individual NPDES permit.

B. Historic Preservation. The National Historic Preservation Act (NHPA) requires Federal agencies to take into account the effects of Federal undertakings; including the issuance of NPDES permits. A provision has been included in this permit such that an operator is only eligible for permit coverage if their storm water discharges and BMPs are in compliance with the NHPA. Appendix B of the permit outlines procedures for determining whether historic properties are present at a site. If historic properties are present at a site, the operator must obtain and comply with a written agreement with the appropriate state or tribal historic preservation officer that outlines all required measures to prevent adverse effects to historic properties.

C. Endangered Species. The Endangered Species Act (ESA) of 1973 requires Federal agencies, in consultation with the U.S. Fish and Wildlife Service (FWS), that any actions authorized, funded, or carried out by the Agency (e.g., EPA issued NPDES permits) are not likely to jeopardize the continued existence of any Federally-listed endangered or threatened species or adversely modify or destroy critical habitat of such species. For the 1995 MSGP, EPA conducted formal consultation which resulted in a biological opinion issued by the FWS on March 31, 1995, which concluded that the issuance and operation of the MSGP was not likely to

jeopardize the existence of any listed endangered or threatened species, or result in the adverse modification or destruction of any critical habitat.

This permit contains provisions similar to the 1995 to ensure compliance with the ESA. These provisions are described in Appendix A, and include four options for certifying compliance with the Act. Prior to receiving coverage under this permit, all operators must certify that their storm water discharge and storm water discharge related activities are in compliance with the Act under one of the following four criteria:

Criteria A. No endangered or threatened species or critical habitat are in proximity to the industrial activity or the point(s) where authorized discharges reach waters of the United States.

Criteria B. In the course of a separate federal action involving the industrial facility, formal or informal consultation with the fish and wildlife service under Section 7 of the ESA has been concluded.

Criteria C. An incidental take permit was issued, under Section 10 of the ESA, and that authorization addressed the effects of the storm water discharges, allowable non-storm water discharges, and discharge-related activities on listed species and critical habitat.

Criteria D. You have determined adverse effects are not likely based on an evaluation of the effects of the facility's storm water discharges, allowable non-storm water discharges, and discharge-related activities on listed endangered or threatened species and critical habitat.

EPA provided a written request for the U. S. Fish and Wildlife Service's concurrence on the tentative determination that the issuance of this permit may affect, but is unlikely to have an adverse effect on listed threatened/endangered species and critical habitat. Documentation of this consultation is available in the administrative record for this permit.

VIII. Public Notice and Response to Comments. This section will be completed upon the closure of the public notice period.

IX. Availability of the Administrative Record. The administrative record for this permit is available for public viewing from 8AM-4PM MST Monday through Friday at the EPA Region 8 Office. For further information or to set up an appointment to view documents contact:

Storm Water Coordinator (8P-W-WW)
US EPA Region 8
1595 Wynkoop Street
Denver, CO 80202

E-mail: davis.gregory@epa.gov

Phone: (303) 312-6371 (Number for General NPDES Information)

X. Additional Information.

SWPPPs provided to the EPA as part of the permit authorization process are available upon request at the aforementioned address for the permit Administrative Record. In addition, EPA provides data related to actions certified under this general permit. These data include information on facility location, outfall watershed location (12 Digit Hydrologic Unit Code (HUC)), endangered species certification criteria, facility name, and applicable Standard Industrial Classification (SIC) codes, and can be downloaded from the EPA Region 8 web site at:

<http://www.epa.gov/region8/stormwater>

XI. Additional Resources.

Additional storm water information is available through the Internet at the following locations:

www.epa.gov/region8/stormwater - Contains all Region 8 EPA storm water permits and guidance

www.epa.gov/npdes/menuofbmeps - EPA's national Menu of Best Management Practices

www.cwp.org – The Center for Watershed Protection is a non-profit corporation which has developed several guidance documents for EPA which relate to management of storm water runoff.

